HADLEY *v.* UNITED STATES

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE NINTH CIRCUIT

No. 91-6646. Argued November 4, 1992—Decided November 16, 1992

Certiorari dismissed. Reported below: 918 F. 2d 848.

John Trebon, by appointment of the Court, 503 U. S. 958, argued the cause and filed briefs for petitioner.

Deputy Solicitor General Bryson argued the cause for the United States. With him on the brief were *Solicitor General Starr, Assistant Attorney General Mueller, Jeffrey P. Minear,* and *Thomas E. Booth.*

PER CURIAM.

The writ of certiorari is dismissed as improvidently granted.

Syllabus

PARKE, WARDEN *v.* RALEY

CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

No. 91–719. Argued October 5, 1992—Decided December 1, 1992

In 1986, respondent Raley was charged with robbery and with being a persistent felony offender under a Kentucky statute that enhances sentences for repeat felons. He moved to suppress the 1979 and 1981 guilty pleas that formed the basis for the latter charge, claiming that they were invalid because the records contained no transcripts of the proceedings and hence did not affirmatively show, as required by *Boykin* v. *Alabama*, 395 U. S. 238, that the pleas were knowing and voluntary. Under the state procedures governing the hearing on his motion, the ultimate burden of persuasion rested with the government, but a presumption of regularity attached to the judgments once the Commonwealth proved their existence, and the burden then shifted to Raley to produce evidence of their invalidity. As to the 1981 plea, Raley testified that, among other things, he signed a form specifying the charges to which he agreed to plead guilty and the judge at least advised him of his right to a jury trial. His suppression motion was denied, he was convicted, and he appealed. The Kentucky Court of Appeals found that Raley was fully informed of his rights in 1979 and inferred that he remained aware of them in 1981. Raley then filed a federal habeas petition. The District Court rejected his argument that the state courts had erred in shifting the burden of production to him, but the Court of Appeals reversed as to the 1981 plea, holding, *inter alia*, that where no transcript is available, the prosecution has the entire burden of establishing a plea's validity by clear and convincing evidence and no presumption of regularity attaches to the prior judgment.

Held:

1. Kentucky's burden-of-proof scheme is permissible under the Due Process Clause. Pp. 26–35.

(a) "Tolerance for a spectrum of state procedures dealing with [recidivism] is especially appropriate" given the high rate of recidivism and the diversity of approaches that States have developed for addressing it. *Spencer* v. *Texas*, 385 U. S. 554, 566. Pp. 26–28.

(b) The deeply rooted presumption of regularity that attaches to final judgments would be improperly ignored if the presumption of invalidity applied in *Boykin* to cases on direct review were to be imported to recidivism proceedings, in which final judgments are collaterally at-